

# EXHIBIT “1”

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[1]  
[2] because I had just taken stores, which they told  
[3] me straighten up this here. He say we are going  
[4] to work in the dry storeroom this afternoon. I  
[5] said okay.  
[6] Q: When you say you just had taken  
[7] stores, what do you mean?  
[8] A: The stores came in before I got  
[9] there. In other words, when you take stores you  
[10] haven't got time to put everything away. So  
[11] that's where we make our overtime. On our time  
[12] off we go work the stores. That's what I was  
[13] referring to as perimating overtime. You cannot  
[14] work as stores when you are working regular  
[15] hours. That's perimating.  
[16] Q: Right before you did this job, what  
[17] were you doing?  
[18] A: We had finished lunch.  
[19] Q: So this job happened right after  
[20] lunch?  
[21] A: After lunch, yes.  
[22] Q: And was that the first job that you  
[23] were going to do in overtime?  
[24] A: Yes, because, you know, I get my  
[25] three hours for like cleaning sougeeing,

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[1] cleaning the galley, the area. Now the stores  
[2] are something different, I get my three hours  
[3] just for maintaining of the galley, keeping it  
[4] clean, if anything is wrong let the steward  
[5] know.  
[6] In other words, say something broke  
[7] and I can't tell the chief, hey, chief, I need  
[8] this. I have to tell the steward. He is the  
[9] head of the department. He is the one that got  
[10] to go tell the steward and report it.  
[11] Q: Does there come a time of day  
[12] normally on the Maersk ARKANSAS where the  
[13] steward tells you what overtime job you were  
[14] going to be working?  
[15] A: Yes.  
[16] Q: When does that happen?  
[17] A: You could be working, he'll tell  
[18] you like say we're working during the working  
[19] hours, we working this afternoon after lunch we  
[20] are going to go work in the stores. He already  
[21] told you what you are going to do for that. If  
[22] you tell him no, he can tell you, okay, you  
[23] refuse overtime, so in other words, the rest of  
[24] the time that you are on the ship, he don't have

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[1] to call you for overtime.  
[2] Q: So all you have to do is refuse  
[3] once?  
[4] A: Yes.  
[5] Q: And he can refuse to call you out?  
[6] A: You can tell the captain, Captain,  
[7] I asked him to work overtime, he told me no.  
[8] The captain says well, the rest of the trip, no  
[9] overtime for him. And that's where you make  
[10] your money at, on your overtime.  
[11] Q: Have you ever seen a seaman refuse  
[12] overtime?  
[13] A: Yes. I seen a lot of them because  
[14] they want to go ashore.  
[15] Q: Have you ever seen a seaman who  
[16] refuses overtime to go to ashore not getting any  
[17] overtime for the rest of the voyage?  
[18] A: Yes, I've seen that. A lot of ABs  
[19] in there. All you have to do is tell the guy  
[20] one time I don't want overtime. Okay, he'll  
[21] tell the captain he don't want overtime. Okay,  
[22] we'll get somebody else to work the overtime,  
[23] you understand.  
[24] Then once a week you have to turn

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[1] in your overtime to the captain, and he gets his  
[2] orders from the captain. If the captain tells  
[3] him I want you to work the stores, straighten  
[4] these up here, so that's our overtime. The  
[5] captain, the master, is the one that approves  
[6] the overtime.  
[7] Q: Is it your understanding that the  
[8] steward has to give you overtime?  
[9] A: It's not the steward. It's the  
[10] captain.  
[11] Q: Let me re-ask the question, then:  
[12] Is it your understanding that the captain has to  
[13] give you overtime?  
[14] A: Well, put it this way, if you take  
[15] stores and they put them in the middle of a  
[16] passageway where people go in and out and you  
[17] don't take care of that, somebody is going to  
[18] come along, get hurt and then it's going to be  
[19] worse for you.  
[20] Q: I understand it's a good idea to  
[21] have overtime and for a well-run ship you need  
[22] over time.  
[23] A: Right, to eliminate any accidents  
[24] or anything, you clear everything out. You put

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[1] **Padilla**  
 [2] everything in its place where it belongs, you  
 [3] secure it and everything, because in the middle  
 [4] of the night in the storm and if you ain't got  
 [5] your glasses secure, when you come down in the  
 [6] morning you are going to have honey and  
 [7] everything all over the place.  
 [8] **Q:** Let me ask you this: Technically,  
 [9] is it possible for the captain to run the ship  
 [10] without giving anybody overtime?  
 [11] **A:** No. The captain, he's not going to  
 [12] come down and put everything away, he's getting  
 [13] \$187 an hour. He's going to tell you I'm giving  
 [14] you an order, go down there and straighten this  
 [15] up, get your department to straighten it up.  
 [16] Like he'll go to the deck department and say I  
 [17] want this done. The chief mate gives the orders  
 [18] to the bolson, he gives it to the AB. Like in  
 [19] the engine room the same thing. Your boss tells  
 [20] you to do it, you do it.  
 [21] **Q:** By the hierarchy?  
 [22] **A:** Exactly.  
 [23] **Q:** I understand that.  
 [24] My question is: You are telling me  
 [25] that the captain will be crazy not to give

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[1] **Padilla**  
 [2] overtime because it would be an unsafe ship; is  
 [3] that right?  
 [4] **A:** Yes.  
 [5] **Q:** But suppose we had a captain who is  
 [6] crazy enough to do that, do you have a legal  
 [7] right to get overtime on the ship? In other  
 [8] words, if the captain said I want no overtime,  
 [9] do you have any legal right to go and sue him  
 [10] for the overtime?  
 [11] **A:** No, no, no. Here is the way it  
 [12] works: The captain, he wants to cover his butt,  
 [13] he doesn't want no accidents or anything so he  
 [14] goes to every department, he'll tell the chief  
 [15] engineer look, I want this, the chief mate, I  
 [16] want this, the steward, I want this. He talks  
 [17] to the head departments.  
 [18] My boss is the steward. I have to  
 [19] do what he tells me. It he tells me go move  
 [20] this over there, I have to do that, that's my  
 [21] job, right. Now, he don't tell me go move it,  
 [22] hey, you don't tell me to go move it, I'm not  
 [23] going to go on my time off and clean out a  
 [24] freezer, which when you takes stores, you'll be  
 [25] surprised, that gets loaded and they put it in

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[1] **Padilla**  
 [2] the wrong places and you have to like when you  
 [3] are in a freezer you want to know exactly here  
 [4] is my ground beef, here is my pork, here is my  
 [5] beef, here is my lamb. You set everything where  
 [6] you know exactly where it is.  
 [7] **Q:** You want to organize.  
 [8] **A:** Yes. You know exactly where  
 [9] everything is at so when he comes down to take  
 [10] inventory of what he needs, all he do is ground  
 [11] beef, I got so much, pork I got so much.  
 [12] He takes an inventory of everything  
 [13] in its place, which is better than having tomato  
 [14] cans here and corn over there. You put all the  
 [15] cans with the cans, all the glasses you put on  
 [16] the bottom so they don't be flying. But you be  
 [17] surprised, you know. You cannot do overtime  
 [18] unless the master approves it. It's in the  
 [19] contract.  
 [20] **MR. O'BRYAN:** Can I ask you  
 [21] one question?  
 [22] **MR. WALSH:** Sure.  
 [23] **MR. O'BRYAN:** Is there any  
 [24] overtime that's automatic that you  
 [25] do every week, week in and week out,

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[1] **Padilla**  
 [2] like on Saturdays or Sundays or  
 [3] anything like that?  
 [4] **THE WITNESS:** Yes. You have  
 [5] in the galley my job. My overtime  
 [6] is to keep the galley clean. That's  
 [7] my three hours a day. Today say I  
 [8] do this, tomorrow I do the grill.  
 [9] **MR. O'BRYAN:** So there is  
 [10] mandatory and discretionary  
 [11] overtime?  
 [12] **THE WITNESS:** Exactly. The  
 [13] Board of Health comes in there and  
 [14] he walks in the galley and see all  
 [15] this grease and everything, they are  
 [16] not going to get on me, they are  
 [17] going to get on the captain and they  
 [18] could fine him. The Board of Health  
 [19] will come in, they will put a  
 [20] sticker on the ship, ain't going  
 [21] nowhere. The company is going to be  
 [22] losing thousands. So he wants  
 [23] everything clean.  
 [24] **BY MR. WALSH:**  
 [25] **Q:** You agree with your lawyer on the